

AMENDED IN SENATE SEPTEMBER 5, 2001

AMENDED IN SENATE JULY 17, 2001

AMENDED IN SENATE JUNE 19, 2001

AMENDED IN ASSEMBLY MAY 14, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 69

Introduced by Assembly Member Wright
(Coauthor: Assembly Member Robert Pacheco)
(Coauthor: Senators Alarcon and Murray)

December 13, 2000

An act to add Section 9601.5 to the Public Utilities Code, relating to electricity, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 69, as amended, Wright. Electricity: governmental entities in Los Angeles County: contracts.

Existing law prohibits a city or municipally owned electric utility from selling electric power to the retail customers of a public utility unless the city or municipally owned electric utility agrees to let the public utility make sales of electric power to its retail customers. Existing law requires that a customer of a public utility that purchases electricity through a direct transaction contract pay certain generation-related transition charges.

This bill would permit specified governmental entities that are served by the Southern California Edison Company within Los Angeles

County to purchase electricity for use in those areas from the Los Angeles Department of Water and Power. The bill would require that the electricity be used only for facilities owned or leased by a governmental entity that are used for governmental purposes. The bill would prohibit reselling the electricity. The bill would not require that reciprocity of electrical sales be provided to the Southern California Edison Company. The bill would exempt the sales from specified generation-related transition charges.

The bill would ~~permit~~ *authorize* the Public Utilities Commission to limit the right of governmental entities that purchase power from an electrical corporation to purchase power from the Los Angeles Department of Water and Power, if necessary to satisfy power purchase or bond obligations of the Department of Water Resources, as specified. The *bill would authorize the* governmental entity ~~may~~ to elect to purchase power from the Los Angeles Department of Water and Power and avoid any limitation placed upon its power purchases by the commission, by payment of the Department of Water Resources' net unavoidable costs of *future* power procurement, as specified, *and the difference, if any, between the Department of Water Resources' total actual procurement costs, including financing costs, and the rates collected by the Department of Water Resources from the governmental entity during the term of service. The governmental entity may request a calculation of these costs prior to making an election.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The ability of local agencies to secure stable and affordable
- 4 power is necessary to ensure that those agencies can provide
- 5 essential services such as health and public safety.
- 6 (b) The reality of rolling blackouts and higher electric costs for
- 7 those areas of local agencies served by investor-owned utilities
- 8 requires the state to assist local agencies.
- 9 (c) In some parts of the state there are local agencies in which
- 10 parts of the geographical area served by the local agency ~~is~~ *are*

1 served by an investor-owned utility and the remaining parts are
2 served by a publicly owned utility that has surplus electrical
3 generating capacity.

4 (d) Allowing those local agencies to buy more of their
5 electricity from the publicly owned utility would reduce demand
6 on the investor-owned utility and help ensure reliable and
7 affordable electric power for the local agency.

8 SEC. 2. Section 9601.5 is added to the Public Utilities Code,
9 to read:

10 9601.5. (a) (1) This section is only applicable to the Los
11 Angeles Department of Water and Power and the governmental
12 entities described in subdivision (h).

13 (2) For purposes of this section, a “contract” means a direct
14 transaction as defined in Section 331 entered into pursuant to this
15 section by a governmental entity described in subdivision (h) and
16 the Los Angeles Department of Water and Power.

17 (b) Notwithstanding any other provision of law, a
18 governmental entity may enter into a contract for electricity to be
19 delivered for use within the geographical boundaries of the County
20 of Los Angeles in areas served by the Southern California Edison
21 Company. The electricity purchased may only be used for facilities
22 owned or leased by the governmental entity and used to perform
23 governmental services. The electricity may not be resold by the
24 governmental entity.

25 (c) This section may not be interpreted to require either a
26 governmental entity or the Los Angeles Department of Water and
27 Power to enter into a contract.

28 (d) The Southern California Edison Company shall deliver the
29 electricity provided by the Los Angeles Department of Water and
30 Power under a contract entered into pursuant to this section. The
31 delivery service shall be provided at the rates, terms, and
32 conditions approved by the commission and applicable to
33 customers who have entered into a direct transaction. Section 9602
34 and subdivisions (a) and (c) of Section 9601 are not applicable to
35 the parties of a contract entered into pursuant to this section.

36 (e) If there is a legal challenge to a contract by the Southern
37 California Edison Company based on a theory of vested rights
38 under former Section 19 of Article XI of the California
39 Constitution, as it read on January 1, 1911, and a court determines
40 that there is a vested right affected by the contract which requires

1 payment to the Southern California Edison Company by either the
2 governmental entity or the Los Angeles Department of Water and
3 Power for the right to sell power in the service areas covered by
4 the contract, then the party which would have to make such
5 payment may rescind the contract.

6 (f) A contract may not permit the Southern California Edison
7 Company to have a reciprocal right to sell electricity within the
8 service area of the Los Angeles Department of Water and Power.
9 The fact of a contract does not give the Southern California Edison
10 Company a legal right to sell electricity to the retail customers of
11 the Los Angeles Department of Water and Power. Subdivision (c)
12 of Section 9601 is not applicable to a contract entered into pursuant
13 to this section.

14 (g) Upon termination of a contract entered into pursuant to this
15 section, the default provider of power shall be the Southern
16 California Edison Company. Customers as described in
17 subdivision (h) who return to Southern California Edison
18 Company for procurement service shall be subject to the same
19 terms and conditions as are applicable to other returning direct
20 access customers as authorized by the commission pursuant to this
21 code or any other applicable provision of law.

22 (h) This section is only applicable to the following
23 governmental entities:

- 24 (1) The County of Los Angeles.
- 25 (2) The Los Angeles Unified School District.
- 26 (3) The Los Angeles County Metropolitan Transportation
27 Authority.
- 28 (4) The Los Angeles County Office of Education.
- 29 (5) The Los Angeles Community College District.

30 (i) The commission may limit the right of a governmental
31 entity described in subdivision (h) that purchases power from an
32 electrical corporation, to purchase power from the Los Angeles
33 Department of Water and Power pursuant to this section, but only
34 to the extent the commission determines it is necessary to ensure
35 satisfaction of any power purchase obligation or bond obligation
36 incurred by the Department of Water Resources pursuant to
37 Division 27 (commencing with Section 80000) of the Water Code,
38 to procure power to serve that governmental entity.

39 (j) (1) Notwithstanding subdivision (i), a governmental entity
40 described in subdivision (h) may elect service from the Los



Angeles Department of Water and Power at any time pursuant to this section, upon payment to the Department of Water Resources of ~~any uncollected amounts equivalent to the Department of Water Resources' net unavoidable cost of power procurement, including any financing costs, attributable to that governmental entity, as determined by the Department of Water Resources. The Department of Water Resources' net unavoidable cost shall be~~ calculated as the difference, if any, between the Department of Water Resources' total actual procurement costs and the rates collected by the Department of Water Resources from that governmental entity during the term of service. Any amounts due pursuant to this section for the purchase of power may be payable in installments over a term coincident with the term of bonds issued to finance the purchase of that power. *both of the following amounts:*

(A) *The difference, if any, between the Department of Water Resources' total actual procurement costs, including financing costs, and the rates collected by the Department of Water Resources from that governmental entity during the term of service.*

(B) *The Department of Water Resources' net unavoidable cost of future power procurement, including any financing costs, attributable to that governmental entity, as determined by the Department of Water Resources.*

(2) *Any amounts due pursuant to this subdivision for the purchase of power may be payable in installments over a term coincident with the term of bonds issued to finance the purchase of that power.*

(3) *A governmental entity prior to making the election under paragraph (1) may submit a request to the Department of Water Resources for an estimate of each amount that would be due under subparagraphs (1) and (2) of paragraph (1). The Department of Water Resources shall provide the estimate to the governmental entity and to the Legislature within 30 days of the request. The estimate of each amount shall include the calculations and a description of the methodology used in making the estimates.*

SEC. 3. The Legislature finds and declares that, because of the unique circumstances applicable only to the County of Los Angeles, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the

1 California Constitution. Therefore, this special statute is
2 necessary.

3 *SEC. 4. This act is an urgency statute necessary for the*
4 *immediate preservation of the public peace, health, or safety*
5 *within the meaning of Article IV of the Constitution and shall go*
6 *into immediate effect. The facts constituting the necessity are:*

7 *In order to ensure that a reliable source of electricity is made*
8 *available to local governmental entities at reasonable prices and*
9 *to avoid a reduction in essential services provided by those*
10 *governmental entities, thereby preserving the public peace, health,*
11 *safety, and well-being, it is necessary for this act to take effect*
12 *immediately.*

